

June 25, 2014



**Talbot County Planning Commission
Special Meeting**

Final Decision Summary

Wednesday, March 19, 2014 at 7:00 p.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes
Michael Sullivan
Paul Spies
Jack Fischer

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Staff:

Sandy Coyman, Planning Officer
Mary Kay Verdery, Assistant Planning Officer
Mike Pullen, County Attorney
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the special meeting to order at 7:00 p.m.

2. Old Business

a. Amendment to Legislation for Cottage Industries Bill Number 1259

Ms. Verdery stated the purpose of this review the amendment to the bill to resolve a conflict found between the Code permitting variances of bulk requirements and its limit on granting variances to lot size and width. Section 190-182(3)(a) states that density, minimum lot size, and minimum lot width cannot be granted a variance. The terms minimum lot size and minimum lot width are defined as bulk requirements.

Also the County Council noted asked the Commission to clarify the affect on a property owner with a previously approved cottage industry responsibility to meet the use certificate requirement. Staff proposes an amendment that would require a separate recommendation for a use certification for continued operation of all cottage industries. Cottage industry use certificates would be renewed every two years and the County would inspect to ensure compliance with the original approval, including any amendments as a condition of renewal.

Staff provided the Commission a listing of properties violating the Code's cottage industry provision and the nature of the violation for each.

Eight known special exceptions have been granted for cottage industries, five occurred before December 1998 when the cottage industry provisions were modified to increase the minimum lot size from two to five acres and increased setbacks from 50 feet to 150 feet and 200 feet to a neighboring residence.

Commissioner Hughes noted that Section 190-182(a)(1) states that the Board of Appeals or the Planning Director may authorize a variation or modification from the bulk requirements or numerical parking standards subject to the standards given in this chapter which puts further conditions on the bulk requirements. He asked Mr. Pullen if it was appropriate for the Commission to revisit its original recommendation..

Mr. Pullen said the Commission should limit their discussion to the amendment before them. Depending on what is decided, if after review it materially changes the recommendation, you are entirely within your rights to note the additional concerns. He would have to research the question whether the Commission can revise its recommendation and if permitted the proper method.

Commissioner Hughes explained the standards for granting variance are quite strict. Mr. Pullen explained that there are four or five elements. The primary one is unique physical hardship that would deprive the owner of a right enjoyed by other similarly situated properties. If you don't make it over that threshold you don't get to the question of strict enforcement or unwarranted hardship. And a demonstration of comprehensive plan consistency is required.

Commissioner Fischer asked Mr. Pullen how other counties handle cottage industries. Mr. Pullen was not aware how cottage industries were handled specifically. He was aware that most counties and towns with land use controls have processes in place for variances and special exceptions. Commissioner Hughes questioned if anyone who had an existing cottage industry that had less than five acres would be grandfathered. Ms. Verdery stated they would.

Commissioner Hughes asked if we could limit amending the variance process to cottage industries. Commissioner Fischer and Commissioner Spies expressed concern with this approach. Mr. Pullen stated the change could affect cottage industries only.

Mr. Pullen observed that the existing Code provisions were internally inconsistent and in his opinion the proposed amendment would not create an unwarranted opportunity for variances and that there has been a dearth of requests for such variances.

Commissioner Hughes suggested the Commission recommend limiting the right to seek variances to lot size and width to cottage industries. The Commission noted that the standards for variances would set appropriate limits on variances and at this point the variances should be limited to cottage industries only

Commissioner Hughes asked for public comment.

Sarah Everheart, Esquire representing Tim Dobson, Dobson Lawn and Landscape implored the Commission to move forward with this. There are 31 landscape

99 contractors in the yellow pages in the County, that doesn't include craftsman and
100 others that would be affected by this.

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102 Commissioner Hughes asked Mr. Pullen about enforcement. Mr. Pullen stated it
103 could be a Staff initiated enforcement action and suggested that the language
104 noting the impacts on neighbors as a criterion for the use certificate be removed as
105 it may be problematic.

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107 Commissioner Spies moved to make recommend to County Council approval of
108 the amended legislation for cottage industries with the language change limiting
109 variances to cottage industry only, seconded by Commissioner Fischer. The
110 motion carried unanimously.

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112 Commissioner Spies moved to give a positive recommendation to the County
113 Council for Section 190-39 Cottage Industry, use certificate requirement to clarify
114 the requirement for existing cottage industry, approved by special exception,
115 seconded by Commissioner Fischer. The motion carried unanimously.

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117 **b. Critical Area Mapping Project**

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119 Ms. Verdery presented a power point highlighting the changes in the Critical Area
120 maps. In 2008 legislation passed to adopt a state-wide base map with digitally
121 generated 1,000 foot critical area boundary. Baltimore and Talbot County were
122 selected as the pilot project areas. From April of 2008 to March of 2013 the
123 Critical Area Commission, Department of Natural Resources, Department of the
124 Environment and County Staff have worked to develop a methodology, standards
125 and regulations for delineating the shoreline and to the tidal wetlands edge.

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127 In December of 2010 there were three public meetings, two in Easton, one in St.
128 Michaels. Property owners who had a 50% or greater change in the area of the
129 property within the critical area received a letter from the Commission (218
130 letters). In March of 2011 another 1,445 notice letters and that encompassed all
131 properties that received an increase in critical area acreage. The citizens and
132 property owners were able to pa were sent to ensure all property owners with
133 changes received notice of the changes.

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135 In 2010 to 2012 the Critical Area worked on state legislation to address mapping
136 regulations, growth allocations and other standards. In November 2010, June
137 2011 and February 2012 County staff took several review points to the Planning
138 Commission for guidance. In March 2013 we received summary draft maps from
139 the Critical Area Commission for adoption within 24 months. The current critical
140 area boundary is based on the 1972 wetland maps. They were digitized and
141 overlaid on current resource maps.

When the Critical Area Maps were adopted in 1989 Talbot County established the LDA (Limited Development Area) and IDA (Intensely Development Area) maps. These maps have been updated to represent the current conditions.

Ms. Verdery recommended addressing the map changes effect limiting lot coverage on lands not previously in the Critical Area as the new regulations would create an unanticipated burden on the property owner. To address this Staff proposes a text amendment allowing lots of record wholly or partially outside of the one thousand foot critical area boundary before they came into the Critical Area would be subject to the following limitations:

1. Lots greater than one-half acre, coverage cannot exceed 15% of the lot located within the critical area.
2. Lots one-half acre or less lot coverage may not exceed 40% of the lot area located within the critical.
3. For non-conforming lots a legally developed lot exceeding the percent of lot coverage in subsection F(1) and (2) above prior to the date of adoption shall be considered legally non-conforming for purposes of lot coverage requirements.
4. The additional requirements within the non-conforming structure section.

The overall statistics based on the mapping update: 67,186 acres in Critical Area; just over 58,403 in the RCA; over 7,595 in the LDA; 1,139 in the IDA. 1,668 acres were added and 837 were removed.

Commissioner Fischer thanked Ms. Verdery and Mr. Cahoon for all their hard work. Commissioner Hughes asked for to public comment; none was given.

Commissioner Hughes observed that the Commission had to give added lands a critical area designation (IDA/LDA/RCA) and amend these lands' zoning. Responding to Commissioner Hughes' question, Ms. Verdery stated the Department of Assessments and Taxation would not use these maps for assessment purposes, but other agencies may use this information.

Commissioner Sullivan moved to table the recommendation to the County Council to the April 2, 2014 meeting, seconded by Commissioner Spies. The motion carried unanimously.

3. Discussions Items

- a. Villages—Mr. Coyman stated the County Council is considering the village densities, tier maps, wastewater treatment, and sanitary service areas. Public meetings will be held. Staff will keep the Commission apprised of actions on this matter.

187 Commissioner Fischer asked what the County Council had in mind regarding the
188 tier maps. Mr. Coyman stated there will be a series of three or four meetings on
189 the villages with residents to discuss the tier maps.
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- 191 **b.** Comprehensive Plan—County Council wants the Comprehensive Plan completed.
192 Commissioner Hughes questioned if they want it completed before November.
193 Mr. Coyman stated they did.
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195 **4. Staff Matters**

196 **5. Work Sessions**

197 **6. Commission Matters**

198 **7. Adjournment**—Commissioner Hughes adjourned the meeting at 7:58 p.m.
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